

REMARKS

1. Preliminary Matters

Claims 65 and 67-77 are pending in this application. An Amendment and Reply under 37 C.F.R. § 1.113 filed on July 8, 2005 (the "Second Reply") was entered by the Examiner as indicated in the Advisory Action mailed July 22, 2005 (the "Second Advisory Action").

Claims 1-64, 66, and 78-81 were previously cancelled. Claims 65 and 67 have been amended. Claim 65 has been amended to add the phrase "wherein the antibody binds to a portion of the sequence set forth in SEQ ID NO:4 that is divergent from the sequence set forth in SEQ ID NO:2." Claim 67 has been amended to add the phrase "and wherein the portion is divergent from the sequence set forth in SEQ ID NO:2." Support for each of these amendments may be found at lines 11-17 of page 53 of the specification as filed. Accordingly, Applicant respectfully submits that no new matter has been added. Upon entry of these amendments, claims 65 and 67-77 are pending and under active consideration. Applicant respectfully requests entry of the amendments and remarks.

2. Rejections

a. 35 U.S.C. § 102(b)

The Examiner maintains the rejection of claims 65 and 66-77 under 35 U.S.C. § 102(b) for lack of novelty in view of O'Brien and Yang. Applicant respectfully submits that the cited references do not disclose each and every element of the claims, as amended, and therefore, the claims, as amended, overcome the Examiner's rejection.

As discussed above, the claims have been amended to recite that the antibody binds to a portion of the sequence set forth in SEQ ID NO:4 that is divergent from the sequence set forth in SEQ ID NO:2. O'Brien and Yang refer to the preparation of antibodies raised to murine Cyr61. The antibodies of O'Brien and Yang would, therefore, be distinct from an antibody that binds to a portion of the human Cyr61 sequence that is divergent from the murine sequence.

In view of the cited references failing to disclose antibodies that specifically bind to a portion of the sequence of human Cyr61 that is divergent from murine Cyr61, and the guidance provided by the specification in selecting appropriate antigens to produce such antibodies,

Applicant respectfully requests reconsideration and withdrawal of the rejection under 35 U.S.C. § 102(b).

b. 35 U.S.C. § 103(a)

The Examiner has rejected claims 65 and 67-77 as obvious over O'Brien or Yang in view of Hoogenboom. Applicant respectfully submits that the cited references are insufficient to establish a prima facie case of obviousness because the cited references do not teach or suggest each and every element of the claims as amended.

As described above, O'Brien and Yang do not disclose the claimed monoclonal antibodies that specifically bind to a polypeptide comprising a sequence set forth in SEQ ID NO:4 wherein the antibody binds to a portion of SEQ ID NO:4 that is divergent from SEQ ID NO:2. The Examiner characterizes Hoogenboom as teaching methods of making chimeric or humanized antibodies, but such teachings cannot overcome the above-described deficiencies of O'Brien and Yang. Therefore, the previously cited references do not teach or suggest each and every element of the claims as amended. Accordingly, Applicant respectfully requests that the Examiner withdraw the rejections under 35 U.S.C. § 103(a).

3. Conclusion

In view of the above amendments and remarks, Applicant respectfully submits that the instant application is in good and proper order for allowance and early notification to this effect is solicited. If, in the opinion of the Examiner, a telephone conference would expedite prosecution of the instant application, the Examiner is encouraged to call the undersigned at the number listed below.

Respectfully submitted,

HOWREY LLP

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By: 

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